

October 9, 1975

1975

Dear Mr. Chairman:

I was extremely concerned to learn of the House Ways and Means Committee's decision last week to recommend repeal of Section 912 of the Internal Revenue Code. I would like to present for your consideration certain important factors which the Committee may not have had time to explore fully before making its decision.

In July I wrote to Secretary Simon (copy enclosed) expressing my deep concern that the action proposed would have a severe adverse impact on all agencies with civilian personnel overseas. I understand and support the objectives of the Committee and the Congress in developing an equitable tax system for all our citizens. However, I do not believe that the action the Committee now proposes in fact serves that purpose; rather, it would financially disadvantage all U.S. Government civilian personnel overseas by taxing allowances which in most cases represent reimbursement for the unusual costs associated with overseas assignments.

I know that you and the members of your Committee will agree that the United States Government must attract, train, assign, and retain the best, most highly qualified people to serve as its representatives abroad, regardless of race, color, sex or level of income. I regret to say that the action the House Ways and Means Committee has now recommended would make it extremely difficult for all agencies of the government to meet those goals. Repeal of Section 912 would have a drastic impact on the conditions of work of large numbers of dedicated employees who currently are willing to serve their country abroad at considerable cost in personal, family and emotional terms. (I should

The Honorable

Al Ullman, Chairman,

Ways and Means Committee,

House of Representatives.

- 2 -

also note that the great bulk of these employees are relatively junior in rank and are at the middle to lower end of the pay scale.) The overall efficiency of the foreign affairs community would be hard hit, with adverse effects on the basic mission of the major agencies concerned.

As you know, a 1974 GAO Report recommended changes in the allowance system to provide for equitable treatment of government employees in foreign and non-foreign areas, uniform application of allowances by all agencies, and review of the methodology used in computing allowances and benefits. In response to the GAO Report, the State Department promptly invited the 20 Federal Agencies with the greatest number of overseas civilian employees to participate in an Inter-Agency Committee on Allowances and Benefits to study and make recommendations on the allowance structure (their deliberations do not, of course, include the Military Services, which would continue to enjoy tax exclusions, in contrast to civilian employees serving abroad if the Committee's action with regard to Section 912 becomes law). The Inter-Agency Committee is scheduled to complete its report in December, following which I will personally take whatever steps within my authority are necessary -- based on the Committee's findings -- to insure that government allowances and benefits to our civilian employees serving abroad are equitable and uniformly determined and administered. Those are, however, judgments which, in the absence of the completed work of the Inter-Agency Committee, cannot be made on the basis of fact. For the Executive Branch to move now, in the absence of the relevant data, would be to act on the basis of incomplete information, and would inevitably do injustice to thousands of our employees. For the Congress to act now -- again in the absence of essential facts and analysis -- would lead to the same result.

Let me now cite just a few of the inequities that would be caused if all allowances and benefits authorized under Title IX of the Foreign Service Act of 1946 (as amended) and the Overseas Differentials Act of 1960 (as amended) were no longer exempt from taxation. The following, as examples, would then constitute gross income:

-- 3 --

- payment for the return of the remains of U.S. Government civilian employees who die on assignment overseas;
- travel for the purpose of home leave (which an employee is required by law to take);
- education costs even with a partial deductible feature for tuition (when an employee serving abroad is unable to take advantage of normal public education);
- evacuation of an employee's family from a hostile area;
- post allowance (cost-of-living allowance) which equalizes an employee's spendable income overseas with that earned in Washington. (It should be noted that Washington, our home base, has a higher cost-of-living than the average U.S. city and any price advantages available to the overseas employee such as PX or commissary are fully considered in the computation of the allowance).

I cannot believe that these are the consequences intended by the Committee. Nor can I believe that it is the intention of the Committee to create a situation such as the following with regard to Living Quarters Allowance.

A secretary earning \$9,500 per year (GS-5/FSS-9) receives a Living Quarters Allowance which if Section 912 is repealed, would constitute additional taxable income of \$7,200 in Bahrain -- or \$4,300 in Sao Paulo -- to pay for housing comparable to that he or she would ordinarily occupy in Washington. Such wide variations in the cost of adequate housing are not uncommon, are dependent upon market forces completely outside the control of the employee, and would result in a great disparity in taxable income among employees of the same rank, performing the same duties, but assigned by the Government to different posts.

1976
While some of the expenses cited above would be deductible or excludable under other sections of the Internal Revenue Code, only those employees who could itemize deductions would be able to take advantage of all of them. Thus, once again, it would be our single and junior employees who would suffer most.

Admittedly, the methodology of computing allowances needs review and revision; that is precisely what the Inter-Agency Committee I mentioned earlier is now in the process of doing. I, therefore, respectfully request that you and the Committee reconsider the action taken to repeal Section 912 of the Internal Revenue Code. Otherwise a grave injustice may be done to those civilian employees of the United States Government who serve their country abroad.

Sincerely,

Henry A. Kissinger